

Organizations that make application to the Department of Revenue and are determined to be exclusively religious, educational, or charitable, receive an exemption identification number (an "E" number). See 86 Ill. Adm. Code 130.2007. (This is a GIL).

October 12, 1999

Dear Xxxxx:

This letter is in response to your letter dated August 25, 1999. The nature of your letter and the information you have provided require that we respond with a General Information Letter, which is designed to provide general information, is not a statement of Department policy and is not binding on the Department. See 2 Ill. Adm. Code 1200.120(b) and (c), enclosed.

In your letter, you have stated and made inquiry as follows:

We represent a client who is a Section 501(c)(3) charitable organization, exempt from U.S. income tax and not a private foundation for federal tax purposes. This organization is contemplating conducting business in your state and needs information regarding the necessary filings and registrations for state purposes.

We are writing to request a package of information regarding the registration and filing requirements for a 501(c)(3) organization which is not a private foundation. Please send us information covering the following items where applicable: registration forms with Secretary of State or Attorney General, applications for exemption from sales and use real property tax and/or personal property tax, employment tax registration forms and filing requirements, state filing requirements and tax forms for unrelated business income, and state filing requirements for the organization's information return (Federal Form 990).

We sincerely appreciate your response to this request and look forward to receipt of these materials at your earliest convenience. Please send the materials to the undersigned at the above address. If you have any questions, please contact me at ####.

The information you requested about the Illinois Income Tax will be sent separately. The following information regards the Retailer's Occupation Tax Act.

Organizations that make application to the Department of Revenue and are determined to be exclusively religious, educational, or charitable, receive an exemption identification number (an "E" number). See the enclosed copy of 86 Ill. Adm. Code 130.2007. Nonprofit country clubs, boat clubs, employees' clubs or organizations and other nonprofit social, athletic or recreational

organizations, lodges, patriotic organizations, fraternities, sororities, professional and trade associations, civic organizations, labor unions and other nonprofit organizations are not considered to be exclusively charitable, religious or educational and are consequently liable for Retailers' Occupation Tax when selling tangible personal property at retail to members, guests or others.

The "E" number evidences that the Department recognizes the organizations as exempt from incurring Use Tax when purchasing tangible personal property in furtherance of their organizational purposes. Organizations that are recognized as non-profit under Internal Revenue Code Section 501(c)(3), are not necessarily exempt organizations pursuant to Illinois tax law. Such organizations must obtain an Illinois E number to qualify. If an organization does not have an E number, then its purchases are subject to tax. Please be aware that only sales to organizations holding the E number are exempt, not sales to individual members of the organization.

These organizations are also allowed to engage in a very limited amount of retail selling without incurring Retailers' Occupation Tax liability. These limited amounts of selling are described in the enclosed copy of 86 Ill. Adm. Code 130.2005(a)(2) through (a)(4).

An exempt organization may engage in sales to members, noncompetitive sales, and certain occasional dinners and similar activities (two fundraisers a year) without incurring Retailers' Occupation Tax liability. In regards to sales to members, please note that the population to which sales are made is limited to persons specifically associated with that exempt organization and must be for the primary purpose of the selling organization. If such sales are made to the public at large the selling activity is subject to the Retailers' Occupation Tax. See section 130.2005(a)(2) through (a)(4). In determining whether the sales are for the primary purpose of the selling organization depends on the nature of the tangible personal property sold and how that tangible personal property is used.

Further, if organizations engage in ongoing selling activities (such as Little League concession stands or sales of items in a thrift shop run by a church), they must also register with the Department as retailers, file returns and remit tax. Such organizations must provide their suppliers with Certificates of Resale when making purchases for resale. Illinois law requires a Certificate of Resale to contain the information set out in 86 Ill. Adm. Code 130.1405(b), enclosed.

We understand that an Illinois business packet including Form NUC-1 which is used to register a business for sales tax has already been sent to you.

I hope this information is helpful. The Department of Revenue maintains a Web site, which can be accessed at www.revenue.state.il.us. If you have further questions related to the Illinois sales tax laws, please contact the Department's Taxpayer Information Division at (217) 782-3336.

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If you are not under audit and you wish to obtain a binding Private Letter Ruling regarding your factual situation, please submit all of the information set out in items 1 through 8 of the enclosed copy of Section 1200.110(b).

Very truly yours,

Melanie A. Jarvis
Associate Counsel

MAJ:msk
Enc.